

ASSEMBLY, No. 3989

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MAY 4, 2020

Sponsored by:

Assemblyman HAROLD "HAL" J. WIRTHS
District 24 (Morris, Sussex and Warren)

Co-Sponsored by:

Assemblymen Space and Webber

SYNOPSIS

Allocates \$10 million of constitutionally dedicated CBT revenues for grants for certain lake management activities for recreation and conservation purposes.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/15/2021)

1 AN ACT concerning the use of constitutionally dedicated
2 corporation business tax revenues for recreation and
3 conservation purposes, and amending and supplementing
4 P.L.2016, c.12.

5
6 **BE IT ENACTED** *by the Senate and General Assembly of the State*
7 *of New Jersey:*

8
9 1. Section 6 of P.L.2016, c.12 (C.13:8C-48) is amended to read
10 as follows:

11 6. a. The State Treasurer shall establish a fund to be known as
12 the "Preserve New Jersey Green Acres Fund" and shall deposit into
13 the fund all moneys received pursuant to paragraph (1) of
14 subsection a. of section 5 of P.L.2016, c.12 (C.13:8C-47),
15 paragraph (1) of subsection a. of section 1 of P.L.2019, c.136
16 (C.13:8C-47.1), and any other moneys appropriated by law for
17 deposit into the fund.

18 Moneys in the fund shall be invested in permitted investments or
19 shall be held in interest-bearing accounts in those depositories as
20 the State Treasurer may select, and may be invested and reinvested
21 in permitted investments or as other trust funds in the custody of the
22 State Treasurer in the manner provided by law. All interest or other
23 income or earnings derived from the investment or reinvestment of
24 moneys in the fund shall be credited to the fund. Moneys derived
25 from the payment of principal and interest on the loans to local
26 government units authorized by P.L.2016, c.12 (C.13:8C-43 et seq.)
27 shall also be held in the fund.

28 b. Of the amount deposited in State fiscal year 2017 through
29 and including State fiscal year 2019 into the Preserve New Jersey
30 Green Acres Fund pursuant to paragraph (1) of subsection a. of
31 section 5 of P.L.2016, c.12 (C.13:8C-47):

32 (1) 55 percent shall be allocated for the purpose of paying the
33 cost of acquisition and development of lands by the State for
34 recreation and conservation purposes, and the amount provided
35 pursuant to this paragraph shall be allocated as follows:

36 (a) 50 percent shall be allocated for the purpose of paying the
37 cost of acquisition of lands by the State for recreation and
38 conservation purposes; and

39 (b) 50 percent shall be allocated for the purpose of paying the
40 cost of development of lands by the State for recreation and
41 conservation purposes, and of the amount provided pursuant to this
42 subparagraph:

43 (i) up to 22 percent shall be allocated for the purpose of paying
44 the cost for stewardship activities undertaken on lands administered
45 by the Division of Fish and Wildlife in the department; and

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 (ii) up to 22 percent shall be allocated for the purpose of paying
2 the cost for stewardship activities undertaken on lands administered
3 by the Division of Parks and Forestry in the department;

4 (2) 38 percent shall be allocated for the purposes of providing
5 grants and loans to assist local government units to pay the cost of
6 acquisition and development of lands for recreation and
7 conservation purposes, and of this amount, up to two percent shall
8 be allocated for stewardship activities undertaken by local
9 government units; and

10 (3) seven percent shall be allocated for the purposes of
11 providing grants to assist qualifying tax exempt nonprofit
12 organizations to pay the cost of acquisition and development of
13 lands for recreation and conservation purposes, and of this amount,
14 11 percent shall be allocated for stewardship activities undertaken
15 by qualifying tax exempt nonprofit organizations.

16 c. Any repayments of the principal and interest on loans issued
17 to local government units for the acquisition or development of
18 lands for recreation and conservation purposes using
19 constitutionally dedicated CBT moneys shall be deposited into the
20 Preserve New Jersey Green Acres Fund, and shall be specifically
21 dedicated for the issuance of additional grants and loans in the same
22 manner as provided in subsections a. and b. of section 27 of
23 P.L.1999, c.152 (C.13:8C-27) and this section.

24 d. (1) The moneys in the fund are specifically dedicated and
25 shall be used for the same purposes and according to the same
26 criteria and provisions as those set forth in section 26 of
27 P.L.1999, c.152 (C.13:8C-26), and as provided pursuant to
28 P.L.2016, c.12 (C.13:8C-43 et seq.) and this section.

29 (2) Grants and loans issued to local government units and grants
30 issued to qualifying tax exempt nonprofit organizations using
31 constitutionally dedicated CBT moneys for the acquisition and
32 development of lands for recreation and conservation purposes shall
33 be subject to the same provisions as those prescribed in section 27
34 of P.L.1999, c.152 (C.13:8C-27), except as otherwise provided in
35 section 10 of P.L.2016, c.12 (C.13:8C-52).

36 (3) Notwithstanding any provision of P.L.2016, c.12 (C.13:8C-
37 43 et seq.) or P.L.1999, c.152 (C.13:8C-1 et seq.) to the contrary,
38 projects of the Palisades Interstate Park Commission established
39 pursuant to P.L.1980, c.104 (C.32:14-1.1 et seq.) for the acquisition
40 or development of land for recreation and conservation purposes in
41 New Jersey shall be considered State projects for the purposes of
42 eligibility for funding pursuant to the provisions of P.L.2016, c.12
43 (C.13:8C-43 et seq.).

44 e. Moneys in the fund shall not be expended except in
45 accordance with appropriations from the fund made by law. Any
46 act appropriating moneys from the Preserve New Jersey Green
47 Acres Fund shall identify any particular project or projects to be
48 funded by the moneys, and any expenditure for a project for which

1 the location is not identified by municipality and county in the
2 appropriation shall require the approval of the Joint Budget
3 Oversight Committee, or its successor, except as permitted
4 otherwise in accordance with the same exceptions as those specified
5 in paragraph (2) of subsection a. of section 23 of P.L.1999, c.152
6 (C.13:8C-23).

7 f. Unexpended moneys due to project withdrawals,
8 cancellations, or cost savings shall be returned to the fund.

9 g. Of the amount authorized pursuant to this section, not more
10 than five percent shall be utilized for organizational, administrative
11 and other work and services, including salaries, equipment and
12 materials necessary to administer the applicable provisions of
13 P.L.2016, c.12 (C.13:8C-43 et seq.).

14 h. To the end that municipalities may not suffer a loss of taxes
15 by reason of the acquisition and ownership by the State of lands in
16 fee simple for recreation and conservation purposes, or the
17 acquisition and ownership by qualifying tax exempt nonprofit
18 organizations of lands in fee simple for recreation and conservation
19 purposes that become certified as exempt from property taxes
20 pursuant to P.L.1974, c.167 (C.54:4-3.63 et seq.) or similar laws,
21 the State shall make payments annually in the same manner as
22 payments are made pursuant to section 29 of P.L.1999, c.152
23 (C.13:8C-29).

24 i. The State shall not use the power of eminent domain in any
25 manner for the acquisition of lands by the State for recreation and
26 conservation purposes using constitutionally dedicated CBT
27 moneys in whole or in part unless a concurrent resolution approving
28 that use is approved by both Houses of the Legislature; except that,
29 without the need for such a concurrent resolution, the State may use
30 the power of eminent domain to the extent necessary to establish a
31 value for lands to be acquired from a willing seller by the State for
32 recreation and conservation purposes using constitutionally
33 dedicated CBT moneys in whole or in part.

34 j. Of the amount deposited in each State fiscal year
35 commencing in State fiscal year 2020 and annually thereafter into
36 the Preserve New Jersey Green Acres Fund pursuant to paragraph
37 (1) of subsection a. of section 1 of P.L.2019, c.136 (C.13:8C-47.1):

38 (1) 60 percent shall be allocated for the purpose of paying the
39 cost of acquisition and development of lands by the State for
40 recreation and conservation purposes, and the amount provided
41 pursuant to this paragraph shall be allocated as follows:

42 (a) 45 percent shall be allocated for the purpose of paying the
43 cost of acquisition of lands by the State for recreation and
44 conservation purposes, and of this amount, a minimum of 10
45 percent shall be allocated for Blue Acres projects; **[and]**

46 (b) 55 percent shall be allocated for the purpose of paying the
47 cost of development of lands by the State for recreation and

1 conservation purposes, and of the amount provided pursuant to this
2 subparagraph:

3 (i) up to 22 percent shall be allocated for the purpose of paying
4 the cost for stewardship activities undertaken on lands administered
5 by the Division of Fish and Wildlife in the department; and

6 (ii) up to 22 percent shall be allocated for the purpose of paying
7 the cost for stewardship activities undertaken on lands administered
8 by the Division of Parks and Forestry in the department; and

9 (c) commencing in State fiscal year 2021 and annually
10 thereafter, of the amount allocated pursuant to subparagraph (b) of
11 this paragraph, \$10 million shall be allocated to pay the cost of
12 development of lands for recreation and conservation purposes for
13 the management and maintenance of lakes as provided pursuant to
14 section 2 of P.L. , c. (C.) (pending before the Legislature as
15 this bill); and

16 (2) 30 percent shall be allocated for the purposes of providing
17 grants and loans to assist local government units to pay the cost of
18 acquisition and development of lands for recreation and
19 conservation purposes, including Blue Acres projects, and of this
20 amount, up to 10 percent shall be allocated for stewardship
21 activities undertaken by local government units; and

22 (3) 10 percent shall be allocated for the purposes of providing
23 grants to assist qualifying tax exempt nonprofit organizations to pay
24 the cost of acquisition and development of lands for recreation and
25 conservation purposes, including Blue Acres projects, and of this
26 amount, 11 percent shall be allocated for stewardship activities
27 undertaken by qualifying tax exempt nonprofit organizations.

28 k. (1) In addition to the purposes set forth in subsection d. of
29 this section, moneys in the Preserve New Jersey Green Acres Fund
30 may be applied for the purposes of providing moneys to:

31 (a) meet the Blue Acres costs to the State for the acquisition of
32 lands for a Blue Acres project; or

33 (b) provide grants, pursuant to the provisions of paragraph (2) of
34 this subsection, to assist a qualifying tax exempt nonprofit
35 organization in meeting the Blue Acres costs for the acquisition of
36 lands for a Blue Acres project.

37 (2) A grant by the State for lands to be acquired by a qualifying
38 tax exempt nonprofit organization for a Blue Acres project may
39 include up to 50 percent of the Blue Acres cost of acquisition of the
40 lands by the qualifying tax exempt nonprofit organization.

41 (a) A qualifying tax exempt nonprofit organization shall not use
42 as its matching share of the Blue Acres cost of acquisition of lands
43 for a Blue Acres project any constitutionally dedicated moneys, as
44 defined pursuant to section 3 of P.L.1999, c.152 (C.13:8C-3), or
45 any grant moneys obtained from a Green Acres bond act.

46 (b) To qualify to receive a grant from the Preserve New Jersey
47 Blue Acres Fund, the board of directors or governing body of the
48 applying tax exempt nonprofit organization shall:

- 1 (i) demonstrate to the commissioner that the organization
- 2 qualifies as a charitable conservancy for the purposes of
- 3 P.L.1979, c.378 (C.13:8B-1 et seq.);
- 4 (ii) demonstrate that the organization has the resources to match
- 5 the grant requested;
- 6 (iii) agree to make and keep the lands accessible to the public,
- 7 unless the commissioner determines that public accessibility would
- 8 be detrimental to the lands or any natural resources associated
- 9 therewith;
- 10 (iv) agree not to convey the lands except to the federal
- 11 government, the State, a local government unit, or another
- 12 qualifying tax exempt nonprofit organization, for recreation and
- 13 conservation purposes; and
- 14 (v) agree to execute and donate to the State at no charge a
- 15 conservation restriction pursuant to P.L.1979, c.378 (C.13:8B-
- 16 1 et seq.) on the lands to be acquired with the grant.
- 17 1. In addition to any other reporting requirements required by
- 18 law, the department shall annually send a written report to the
- 19 Chairperson of the Senate Environment and Energy Committee, the
- 20 Assembly Agriculture and Natural Resources Committee, and the
- 21 Assembly Environment and Solid Waste Committee, or their
- 22 successors, identifying the projects funded with moneys pursuant to
- 23 subparagraph (b) of paragraph (1) of subsection j. of this section.
- 24 This report shall: (1) identify the project type, location, and cost for
- 25 each development project; and (2) identify the stewardship
- 26 activities, including the location and cost for each stewardship
- 27 activity, undertaken on lands administered by the Division of Fish
- 28 and Wildlife and Division of Parks and Forestry pursuant to
- 29 subparagraph (b) of paragraph (1) of subsection j. of this section.
- 30 (cf: P.L.2019, c.136, s.3)
- 31
- 32 2. (New section) a. The department shall establish a program
- 33 for the purpose of providing grants with the moneys allocated
- 34 pursuant to subparagraph (c) of paragraph (1) of subsection j. of
- 35 section 6 of P.L.2016, c.12 (C.13:8C-48) to assist qualified entities
- 36 to pay the cost of development of lands for the management and
- 37 maintenance of lakes for recreation and conservation purposes.
- 38 b. (1) In establishing the program required pursuant to this
- 39 section, in addition to the provisions of section 24 of
- 40 P.L.1999, c.152 (C.13:8C-24), and any rule or regulation adopted
- 41 pursuant thereto, the department shall develop criteria for the
- 42 evaluation and ranking of applications to provide priority to
- 43 projects:
- 44 (a) submitted by qualified entities located in the Highlands
- 45 Region and Pinelands area; and
- 46 (b) to improve water quality and increase recreational access
- 47 and use of lakes, including projects to control nutrient levels in
- 48 lakes in order to prevent future harmful algal blooms.

1 (2) A grant issued pursuant to this section may be used for
2 stormwater and nonpoint source pollution management activities
3 that would, as determined by the department, directly enhance,
4 improve, or protect the use of a lake for recreation and conservation
5 purposes.

6 (3) (a) An application received by the department from the
7 Greenwood Lake Commission for funding pursuant to this section
8 shall be approved by the department and shall receive a minimum
9 grant award of \$750,000 in each fiscal year. A grant awarded to the
10 Greenwood Lake Commission pursuant to this section shall be used
11 solely for development for recreation and conservation purposes of
12 that part of Greenwood Lake which lies within the State, and may
13 be utilized without matching funds from substantially similar
14 legislation by the State of New York.

15 (b) An application received by the department from the Lake
16 Hopatcong Commission for funding pursuant to this section shall be
17 approved by the department and shall receive a minimum grant
18 award of \$750,000 in each fiscal year.

19 c. (1) Notwithstanding the provisions of section 13 of
20 P.L.2016, c.12 (C.13:8C-55 et seq.) to the contrary, each fiscal year,
21 the department shall submit a list of qualified entities and a
22 description of the projects to receive funding pursuant to this
23 section to the President of the Senate and the Speaker of the
24 General Assembly to be introduced in each House in the form of
25 legislative appropriations bills. The Legislature may approve one
26 or more appropriation bills containing a project list or lists
27 submitted by the department pursuant to this subsection.

28 (2) The department shall not submit, and the Legislature shall
29 not approve, any other list of projects to receive funding pursuant to
30 P.L.2016, c.12 (C.13:8C-43 et seq.) until the department has
31 submitted to the President of the Senate and the Speaker of the
32 General Assembly the list required pursuant to paragraph (1) of this
33 subsection.

34 d. As used in this section:

35 "Greenwood Lake Commission" means the commission created
36 pursuant to section 3 of P.L.1999, c.402 (C.32:20A-3).

37 "Highlands Region" means the region as defined pursuant to
38 section 3 of P.L.2004, c.120 (C.13:20-3).

39 "Lake Hopatcong Commission" means the commission created
40 pursuant to section 3 of P.L.2000, c.175 (C.54:4B-3).

41 "Qualified entity" means the Greenwood Lake Commission, the
42 Lake Hopatcong Commission, or a local government unit.

43 "Pinelands area" means the pinelands area as defined pursuant to
44 section 3 of P.L.1979, c.111 (C.13:18A-3).

45

46 3. This act shall take effect immediately.

STATEMENT

This bill would amend and supplement the “Preserve New Jersey Act” to allocate \$10 million annually from constitutionally dedicated corporation business tax (CBT) revenues for providing grants to assist certain entities to pay the cost of development of lands for recreation and conservation purposes for the management and maintenance of lakes. The bill directs the Department of Environmental Protection (DEP) to establish a program for the issuance of these grants.

The bill requires the DEP to develop criteria for the evaluation and ranking of applications to provide priority to projects located in the Highlands Region and Pinelands area and to improve water quality and increase recreational access and use of lakes, including projects to control nutrient levels in lakes in order to prevent future harmful algal blooms. The bill provides priority for funding for projects located in the Highlands Region and Pinelands area in recognition of the critical role lakes in these ecologically significant locations provide in the supply of drinking water to residents throughout the State, watershed protection, and for recreation and conservation purposes.

The bill provides that a grant issued pursuant to the bill may be used for stormwater and nonpoint source pollution management activities, if the DEP determines that those activities would directly enhance, improve, or protect the use of a lake for recreation and conservation purposes. Harmful algal blooms occur when colonies of microscopic algae or bacteria grow at exponential rates and produce toxins harmful to humans and animals. Exposure to these algal blooms can cause a range of health effects, including skin rashes, allergy-like reactions, flu-like symptoms, gastroenteritis, respiratory irritation and eye irritation. The issuance by the DEP of “no contact” advisories or other warnings cautioning against contact with the water in certain lakes due to the presence of harmful algal blooms directly impacts the public’s use of lakes for recreation and conservation purposes. Certain stormwater and nonpoint source pollution management activities may control harmful algal blooms, which would result in improvements to water quality and increase recreational access to lakes.

The Greenwood Lake Commission, the Lake Hopatcong Commission, and local government units may apply for grants pursuant to the bill. The DEP would be required to approve any applications submitted by the Greenwood Lake Commission and the Lake Hopatcong Commission, and each commission would receive a minimum grant award of \$750,000 in each fiscal year under the bill.

The funding in this bill is provided from constitutionally dedicated corporation business tax (CBT) revenues pursuant to Article VIII, Section II, paragraph 6 of the State Constitution,

1 approved by the voters of the State in November 2014. The
2 “Preserve New Jersey Act,” P.L.2016, c.12 (C.13:8C-43 et seq.),
3 implements the constitutional dedication of CBT revenues for open
4 space, farmland, and historic preservation. The act provides that a
5 certain amount of the portion of dedicated CBT revenues allocated
6 each year for the Green Acres program is to be used for: the
7 acquisition of lands for open space, including Blue Acres projects,
8 and development projects, including stewardship activities, on State
9 lands administered by the DEP’s Division of Fish and Wildlife and
10 Division of Parks and Forestry; grants and loans to fund local
11 government open space acquisition and development projects; and
12 grants to nonprofit entities to acquire or develop lands for
13 recreation and conservation purposes. The “Preserve New Jersey
14 Green Acres Fund” was established by section 6 of the “Preserve
15 New Jersey Act.”

16 This bill provides that \$10 million of the amount currently
17 allocated for development of lands by the State for recreation and
18 conservation purposes would be used instead to fund the grants to
19 be awarded pursuant to the bill.

20 The bill requires the DEP, each fiscal year, to submit a list of
21 projects to receive funding pursuant to the bill to the President of
22 the Senate and the Speaker of the General Assembly to be
23 introduced in the Legislature as appropriations bills. The bill
24 further provides that the DEP shall not submit, and the Legislature
25 shall not approve, any other list of projects to receive funding
26 pursuant to the “Preserve New Jersey Act” until the DEP has
27 submitted to the Legislature the list of projects recommended to
28 receive funding pursuant to the program established by the bill.

29 The “Preserve New Jersey Act” defines the terms
30 “development,” “recreation and conservation purposes,” and
31 “stewardship.” “Development” means any improvement, including
32 a stewardship activity, made to a land or water area designed to
33 expand and enhance its utilization for recreation and conservation
34 purposes, and includes the construction, renovation, or repair of any
35 such improvement, but does not mean shore protection or beach
36 nourishment or replenishment activities. “Recreation and
37 conservation purposes” means the use of lands for beaches,
38 biological or ecological study, boating, camping, fishing, forests,
39 greenways, hunting, natural areas, parks, playgrounds, protecting
40 historic properties, water reserves, watershed protection, wildlife
41 preserves, active sports, or a similar use for either public outdoor
42 recreation or conservation of natural resources, or both.
43 “Stewardship activity” means an activity, which is beyond routine
44 operations and maintenance, undertaken by the State, a local
45 government unit, or a qualifying tax exempt nonprofit organization
46 to repair, or restore lands acquired or developed for recreation and
47 conservation purposes for the purpose of enhancing or protecting
48 those lands for recreation and conservation purposes.